

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

SHEILA PORTER

Plaintiff,

v.

ANDREA CABRAL, SUFFOLK COUNTY  
SHERIFF'S DEPARTMENT and SUFFOLK  
COUNTY

Defendant.

Civil Action No.04-11935-DPW

**SHEILA PORTER'S MOTION *IN LIMINE* TO PRECLUDE TESTIMONY  
OF WITNESS FIRST IDENTIFIED ON DECEMBER 30, 2005**

Plaintiff Sheila J. Porter ("Mrs. Porter") moves *in limine* for an order precluding the testimony of Anthony Domagala. Defendants have included Mr. Domagala on their witness list, purportedly to provide testimony concerning the "policies and procedures for health services at the SCSD." Mrs. Porter was unaware of the existence of Mr. Domagala until December 30, 2005. His name was not included on defendants' initial disclosures. At no time did the defendants supplement their disclosures to include his name, *see* Fed. R. Civ. P. 26(e), and his name did not arise during discovery. Thus, Mrs. Porter did not have an opportunity to depose Mr. Domagala or otherwise discovery evidence related to him. Under these circumstances, defendants should not be allowed to testify at trial. *See* Fed. R. Civ. P. 37(c)(1).<sup>1</sup>

---

<sup>1</sup> If Mr. Domagala is permitted to testify, he should be precluded from offering an expert opinion concerning the documentation of an inmate's medical record, as described in Mrs. Porter's Motion *in Limine* to Exclude Expert Opinion Testimony and Certain Lay Opinion Testimony.

**CONCLUSION**

For the foregoing reasons, Mrs. Porter respectfully requests that the Court grant her motion *in limine* and preclude Mr. Domagala from testifying at trial.

Respectfully submitted,

SHEILA PORTER

By her attorneys,

Joseph F. Savage, Jr.  
Joseph F. Savage Jr. (BBO #443030)  
David S. Schumacher (BBO #647917)  
GOODWIN PROCTER LLP  
Exchange Place  
Boston, MA 02109  
(617) 570-1000

Dated: December 30, 2005

**CERTIFICATION UNDER LOCAL RULE 7.1**

I, David S. Schumacher, hereby certify that counsel for Sheila Porter conferred with counsel for the Suffolk Defendants in a good faith attempt to resolve or narrow the issues in this motion prior to its filing.

Dated: December 30, 2005

/s/ David S. Schumacher  
David S. Schumacher